

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Ackerman et al.**

Examiner: **Catherine Serke**

Serial No.: **09/449,096**

Group Art Unit: **3763**

Filed: **November 24, 1999**

Docket No.: **Ackrad-5**

For: **SINGLE LUMEN BALLOON  
CATHETER APPARATUS**

Date: **October 29, 2001**

I CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED  
WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN  
ENVELOPE ADDRESSED TO THE ASSISTANT COMMISSIONER FOR  
PATENTS, WASHINGTON D.C. 20231

Cheryl L. Powell

RECEIVED  
JAN 23 2002  
TC 3700 MAIL ROOM

#6  
ND3  
1-24-02

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE TO RESTRICTION**

Dear Sir:

Pursuant to the Office Action dated October 11, 2001, received in regard to the above-noted action, the Examiner has imposed a restriction to one of the following inventions under 35

U.S.C. § 121:

- I. Claims 1 through 16, drawn to a catheter apparatus, classified in class 6041, subclass 96.01.
- II. Claims 17 through 21, drawn to a method of making, classified in class 128, subclass 898.

The Examiner has indicated that the inventions are distinct, each from the other, because of the following reasons:

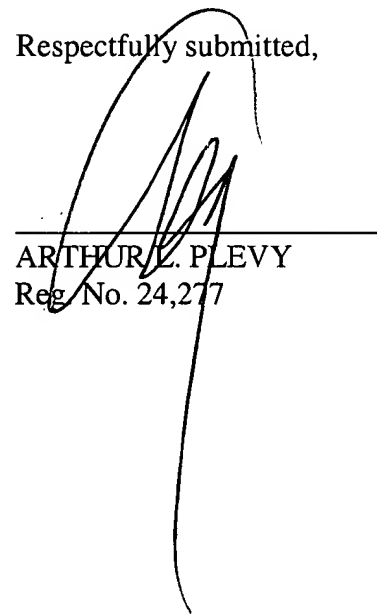
Inventions II and I are related as process of making and the product made. The Examiner gives the reasons as cited in MPEP § 806.05 (f). The Examiner hereby provisionally elects to prosecute claims 1 through 16, drawn to a catheter apparatus, classified in classes 6041, subclass 96.01. The applicant respectfully traverses the Examiner's restriction requirement and offers the following:

While the Examiner indicates that the claims are distinct, it is noted that the method provides for the fabrication of the same exact catheter as specified in, for example, claim 9, which is a catheter having a syringe having balloon having a lumen, the lumen having an external opening adjacent first end and a second opening with the interior of the balloon for inflation. Therefore, the catheter that is specified is, in fact, provided for a new method claim. In this manner, there would be no need for a double search if the catheter indicated in claims 1 through 16 are anticipated by the prior art, then, of course, the method for making a catheter as broadly as specified in claims 17 through 21 also be anticipated. Therefore, the applicant does not think that the Examiner's are distinct.

In any event, for purposes of expediting prosecution, the applicant hereby elects claims 1 through 16, drawn to a catheter apparatus with traverse, as indicated above. The applicant, of course, reserves his rights to file a divisional application regarding claims 17 through 21, if the Examiner feels that this response is not adequate and makes the restriction final. Please do not hesitate to contact the applicant's attorney at the address and number listed below, if the Examiner has any questions or wishes to expedite prosecution.

No fees are believed due as a result of this communication. The Commissioner is hereby authorized to charge any other fees which may be required or credit any overpayment to Deposit Account No. 04-1679.

Respectfully submitted,



---

ARTHUR L. PLEVY  
Reg. No. 24,277

Duane, Morris & Heckscher LLP  
100 College Road West, Suite 100  
Princeton, New Jersey 08540  
(609) 919-4402 - telephone  
(609) 919-4401 - facsimile

PTN\16316.1

3763

CERTIFICATE OF MAILING BY FIRST CLASS MAIL (37 CFR 1.8)			Docket No.	
Applicant(s): Ackerman et al.			Ackrad-5	
Serial No. 09/449,096	Filing Date November 24, 1999	Examiner Catherine Serke	Group Art Unit 3763	
Invention: SINGLE LUMEN BALLOON CATHETER APPARATUS				
<p>I hereby certify that this <u>Response to Restriction</u> _____ (Identify type of correspondence)</p> <p>is being deposited with the United States Postal Service as first class mail in an envelope addressed to: The Assistant Commissioner for Patents, Washington, D.C. 20231 on <u>October 29, 2001</u> (Date)</p> <p><u>Cheryl L. Powell</u> (Typed or Printed Name of Person Mailing Correspondence)</p> <p><u>Cheryl L. Powell</u> (Signature of Person Mailing Correspondence)</p>				
<p>Note: Each paper must have its own certificate of mailing.</p>				